

September 7, 2012

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Presentation, PS Docket Nos. 10-255 & 11-153

Dear Ms. Dortch:

On August 16, 2012, Chris Guttman-McCabe, Vice President, Regulatory Affairs, CTIA–The Wireless Association® (“CTIA”), Brian Josef, Assistant Vice President, Regulatory Affairs, CTIA and Matthew Gerst, Counsel, External & State Affairs, CTIA met with Courtney Reinhard, Legal Advisor to Commissioner Ajit Pai of the Federal Communications Commission (“Commission” or “FCC”) to discuss the Commission’s next steps in the proceedings referenced above.

CTIA shares the Commission’s goal of ensuring that Americans, including the deaf, hard of hearing, and speech impaired communities, can effectively use wireless devices and services to contact publicly available emergency services. Consistent with its comments and reply comments in the above-captioned proceeding,¹ CTIA reviewed the steps that are being considered to help achieve this goal within the framework of the Commission’s authority. The wireless industry, including CTIA’s member companies, continues to discuss incorporating wireless service provider’ SMS services into 911 emergency communication systems (*i.e.*, SMS-to-911). However, and as discussed in CTIA’s filings in this proceeding, there are significant technical, operational and policy challenges that must be addressed by the industry, public safety community and the Commission before SMS-to-911 services can or should be deployed.

Specifically, CTIA discussed the significant challenge the industry and public safety community will face in educating the public – who have well-established expectations about wireless 911 voice services – about the capabilities and limitations of any interim text-to-911 solution. This particularly will be the case if the Commission adopts an order before it answers all of the relevant questions about the service. One potential way to address questions regarding whether the capability exists may be an automatic “bounce-back” SMS message to wireless subscribers that attempt to send an SMS to the three digit code “911” in an area where such services are not available.

¹ See Comments of CTIA – The Wireless Association®, PS Docket Nos. 10-255 and 11-153 (Dec. 12, 2011); Reply Comments of CTIA – The Wireless Association®, PS Docket Nos. 10-255 and 11-153 (Feb. 9, 2012).

CTIA highlighted the technical complexity of utilizing the existing SMS network architecture to route an SMS to the appropriate PSAP and noted that efforts are underway to develop a standards based approach. CTIA also highlighted the operational limitations inherent to SMS that are incomparable to traditional voice calling as an emergency communication service. Standards work will also need to be completed to support expected features of wireless 911 services, such as location information.

Another issue that must be addressed in the course of evaluating an interim text-to-911 framework is liability protection for entities involved in the provision of text-to-911. Such protection is particularly important in light of the well-documented technical shortcomings of SMS as an emergency communications solution.² CTIA remains concerned that existing liability protections at the federal and state level may not be sufficient or consistent enough to provide the wireless industry, the public safety community, and other stakeholders the certainty needed to offer SMS-to-911.

Consistent with CTIA's comments and reply comments in this proceeding, CTIA also noted that significant questions remain with regard to the Commission's claims of legal authority to require wireless service providers to support text-to-911. As a general matter, the Commission's authority to regulate SMS is extremely limited because SMS is properly classified as an information service. More specifically, the theories of authority presented in the NPRM may not establish that the Commission has a clear jurisdictional basis to adopt regulations relating to text-based communications to 911, including SMS.

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this letter is being electronically filed via ECFS with your office and a copy of this submission is being provided to the meeting attendees. Please direct any questions to the undersigned.

Sincerely,

/s/ Brian M. Josef

Brian M. Josef

cc: Courtney Reinhard

² See *Facilitating the Deployment of Text-to-911 and Other Next Generation Applications, Framework for Next Generation 911 Deployment*, Notice of Proposed Rulemaking, FCC 11-134 ¶ 53 (Sept. 22, 2011).